

DOCKET NO.: CING-0652/897.US
Application No.: 10/821,325
Office Action Dated: March 18, 2009

PATENT

REMARKS

Claims 1-35 are pending in the present application, with claims 1, 8, 14, 21, and 24 being independent claims. Claims 1, 8-10, 14, 21, and 24 are amended. No new matter has been added.

In the office action dated March 18, 2009, claims 24-35 are rejected under 35 U.S.C. §101, claims 1 and 8 are rejected under 35 U.S.C. §112, and claims 1-35 are rejected under 35 U.S.C. §103(a). The outstanding rejections to the claims are respectfully traversed.

Examiner Interview

Applicants thank Examiner Duda for conducting an interview with applicants' undersigned representative on June 23, 2009. Applicants and the examiner discussed the proposed amendments to the claims and the application of the cited references. Applicants set forth below a summary of the arguments and traversals presented in the interview.

Response to Amendment

The office action indicates that the amendments to the specification and claims filed on January 30, 2009 do not comply with the requirements of 37 CFR 1.121(c). Applicants discussed this rejection with the examiner on June 17, 2009 during a telephone conversation, and understand that this indication of noncompliant amendments was not proper and that the amendments presented in the previous response are compliant. Accordingly, applicants are not addressing this issue in this response and reserve the right to present further amendments in future responses to address any noncompliance of claim or specification amendments.

Rejections under 35 U.S.C §101

Claims 24-35 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claim 24 has been amended to address this rejection. Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejections under 35 U.S.C §112

In the office action, claims 1 and 8 are rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. The office action asserts that the use of the term “configured” in these claims renders the claims indefinite because it is unclear whether the limitations following the term “configured” are part of the claimed invention. While applicants respectfully disagree with this assertion, applicants have amended claims 1 and 8 in the interest of furthering prosecution. Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejections under 35 U.S.C §103

In the office action, claims 1, 4, 5, and 7 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 7,200,680 issued to Evans *et al.* (hereinafter “Evans”) in view of the publication “WAP Push Message Version 16-August-1999” (hereinafter “WAP”). Applicants respectfully traverse this rejection.

Independent claim 1 recites “based on the recipient identification information and the indication of content in the received request message, determining that the recipient’s mobile device subscribes to a service associated with the content sharing system; responsive to determining that the recipient’s mobile device subscribes to the service associated with the content sharing system, determining whether the recipient’s mobile device and the user’s mobile device have compatible capabilities.” Applicants respectfully assert that these elements are not disclosed or suggested by the cited references.

The office action asserts that Evans at column 7, lines 7-9, discloses determining whether the recipient’s mobile device and the user’s mobile device are in the same class. Applicants respectfully disagree. The cited section describes Evans’ figure 3C, which illustrates Evans’ process of determining a model of a device. There is no disclosure or suggestion in Evans of determining whether the capabilities of a recipient’s device are compatible with the capabilities of a user’s device. Evans merely discloses determining a model for a single device.

Moreover, the cited sections of Evans fails to disclose or suggest determining that the recipient’s mobile device subscribes to a service associated with the content sharing system.

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WAP fails to cure these deficiencies of Evans. Therefore, Evans and WAP, taken individually or together, cannot be said to disclose or suggest the subject matter of claim 1. For similar reasons, Evans and WAP cannot be said to disclose or suggest the subject matter of independent claims 8, 14, 21, and 24. Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 8, 14, 21, and 24 under 35 U.S.C. §103(a).

Applicants acknowledge that the final rejection asserts additional grounds for rejection of the claims that are dependent upon claims 1, 8, 14, 21, and 24. However, in view of the traversals set forth with respect to the independent claims, applicants believe that all such dependent claims are in condition for allowance by virtue of their dependence upon independent claim 1, 8, 14, 21, and 24, rendering the rejections of those claims moot. Moreover, applicants submit that the remaining claims recite features that provide a separate basis for patentability. Applicants therefore respectfully request reconsideration and withdrawal of the rejections of all claims that depend from independent claims 1, 8, 14, 21, and 24. Applicants reserve the right to challenge the rejection of any of those dependent claims in any future response that may be forthcoming.

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CONCLUSION

In view of the foregoing, Applicants respectfully submit that this application, including claims 1-35 is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

Date: July 15, 2009

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